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The Weekly Standard. J. W. HOLDEN. W. W. HOLDEN.

W. W. HOLDEN & SON, Editors of the Standard, and authorized publishers of the Laws of the United States.

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Letters must be addressed to W. W. HOLDEN & SON,

The President's Veto Message.

To the Senate of the United States: I have examined with care the bill which originated in the Senate, and has been passed by the two Houses of Congress, to amend an act entitled "An act to establish a bureau for the relief of place in the hands of the President is freedmen and refugees," and for other purposes. Having, with much regret come to the conclusion that it would not be consistent with the public welfare to give my approval to the measure, I return the bill to the Senate with my objections to its becoming a law .-I might call to mind, in advance of these objections, that there is no immediate necessity for the proposed measure. The act to establish a bureau for the relief of freedmen and refugees, which was approved in the month of March last, has not yet expired. It was thought stringent and extensive enough for the purpose in view, in time of war. Before it ceases to have effect, further experience may assist to guide us to a wise conclusion as to the policy to be

adopted in time of peace. I share with Congress the strongest desire to secure to the freedmen the full enjoyment of their freedom and their property, and their entire independence and equality in making contracts for their labor; but the bill before me contains provisions which, in my opinion, are not warranted by the Constitution, and are not well suited to accomplish

the end in view. The bill proposes to establish, by authority of Congress, military jurisdiction over all parts of the United States containing refugees and freedmen. It would, by its very nature, apply with most force to those parts of the United States in which the freedmen most abound; and it expressly extends the existing temporary jurisdiction of the Freedmen's Bureau, with greatly en-larged powers, over those States "in which the ordinary course of judicial proceedings has been interrupted by the rebellion." The source from which this military jurisdiction is to emanate is none other than the President of the United States, acting through the War Department and the Commissioner of the Freedmen's Bureau. The agents to carry out this military jurisdiction are to be selected either from the army or from civil life; the country is to be divided into districts and sub-districts. and the number of salaried agents to be employed may be equal to the number of counties or parishes in all the United States where freedmen and refugees are

to be found. The subjects over which this military jurisdiction is to extend, in every part of the United States, include protection to "all employees, agents, and officers of the Bureau in the exercise of the duties imposed" upon them by the biff. In eleven States it is further to extend over all cases affecting freedmen and refugees discriminated against "by loeal law, custom, or prejudice." In those eleven States the bill subjects any white person who may be charged with depriving a freedman of "any civil rights or immunities belonging to white persons" to imprisonment or fine, or both, without, however, defining the "civil rights and immunities" which are thus to be secured to the freedman by military law. This military jurisdiction also extends to all questions that may arise respecting contracts. The agent, who is thus to exercise the office of a military judge, may be a stranger, entirely ignorant of the laws of the place, and exposed to the errors of judgment to which all men are liable. The exercise of power, over which there is no

tended by acts of caprice, injustice, and

The trials having their origin under this bill are to take place without the intervention of a jury, and without any fixed rules of law or evidence. The rules on which offences are to be "heard and determined" by the numerous agents are such rules and regulations as the President, through the War Department, shall prescribe. No previous presentment is required, nor any indictment charging the commission of a crime against the laws; but the trial must proceed on charges and specifications. The punishment will be not what the law declares, but such as z court-martial may think proper. And from these arbitrary tribunals there lies no appeal, no writ of error to any of the courts in which the Constitution of the United States vests exclusively the judicial power of the country .-While the territory and the classes of actions and offences that are made subject to this measure are so extensive. the bill itself, should it become a law, will have no limitation in point of time, but will form a part of the permanent legislation of the country. I cannot reconcile a system of military jurisdic-tion of this kind with the words of the Constitution which declares that "no person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land and naval force, or in the militia when in actual service in time of war or public danger," and that "in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State or district wherein the crime shall have been committed." The safeguards which the experience and wisdom of ages taught our fathers to establish as securities for the protection of the innocent, the punishment of the guilty, and the equal administration of justice, are to be set aside, and for the sake of a more vigorous interposition, in behalf of injustice, we are to take the risk of the many acts of justice that would necessarily follow from an almost countless number of agents, established in every parish or county in nearly a third of the States of the Union, over whose decisions there is to be no supervision or control by the Fedral to any

courts. The power that would be thus such as in time of peace certainly ought If it be asked whether the creation of such a tribunal within a State is warranted as a measure of war, the question immediately presents itself, whether we are still engaged in war?-Let us not unnecessarily disturb the commerce, and credit, and industry of the country by declaring to the American people and to the world, that the United States are still in a condition of civil war. At present there is no part of our country in which the authority of the United States is disputed. Of fences that may be committed by individuals should not work a forfeiture of the rights of whole communities. The country has returned or is returning to a state of peace and industry, and the rebellion is in fact at an end. The measure, therefore, seems to be as inconsistent with the actual condition of

If, passing from general consideration, we examine the bill in detail, it is open to weighty objections.

In time of war it was eminently prop-

the country as it is at variance with the

Constitution of the United States.

er that we should provide for those who were passing suddenly from a condition of bondage to a state of freedom. But this bill proposes to make the Freedmen's Bureau, established by the act of 1865 as one of many great and extraordinary military measures to suppress a formidable rebellion, a permanent branch of the public administration, with its powers greatly enlarged. I have no reason to suppose, and I do not understand it to be alleged, that the act of March, 1865, has proved deficient for the purpose for which it was passed, although at that time, and for considerable period thereafter, the Government of the United States remained unacknowledged in most of the States whose inhabitants had been involved in the rebellion. The institution of slavery, for the military destruction of which the Freemen's Bureau was called into existence as an auxiliary, has been already effectually and finally abrogated throughout the whole country by an amendment of the Constitution of the United States, and practically its eradication has received he assent and concurrence of most of those States in which it at any time had had an existence. I am not, therefore, able to discern in the condition of the country anything to justify an apprehension that the powers and agencies of the Freedmen's Bureau, which were effective for the protection of freedmen and refagees during the actual continuance of hostilities and the African servitude will now, in a time of peace and ofter the abolition of slavery, prove inadequate to the same proper ends. If I am correct in these views there can be no necessity for the enlargement of the powers of the Bureau, for which provision is made

in the bill. The third section of the bill authorizes general and unlimited grant of support to the destitute and suffering refugees and freed-men, their wives and children. Succeeding sections make provision for the rent or purcanase or innued escates for freedmen, and for the erection for their benefit of suitable build-ings for asylums and schools, the expenses to be defrayed from the treasury of the whole people. The Congress of the United States has never heretofore thought itself empowered to establish asylums, beyond the limits of legal supervision, by so vast a number of agents as is contemplated by the bill efit of our disabled seldiers and sailors. It must, by the very nature of man, be at- has never founded schools for any class of

our own people-not even for the orphans | ing Congress by loyal Representatives, soliciof those who have fallen in the defence of the Union, but has left the care of education

to the much more competent and efficient control of the States, of communities, of private associations, and of individuals. It has never deemed itself authorized to expend the public money for the rent or purchase of homes for the thousands, not to say millions, of the white race who are honestly toiling from day to day for their subsistence. system for the support of indigent persons in the United States was never contemplated by the authors of the Constitution; nor can any good reason be advanced why, as a per-manent establishment, it should be founded

for one class or color of our people more than Pending the war, many refugees and freedmen received support from the Government; but it was never intended that they should thenceforth be fed, clothed, educated, and sheltered by the United States. The idea on which the slaves were assisted to freedom was that on becoming free they would be a self-sustaining population. Any legislation that shall imply that they are not expected to attain a self-sustaining condition must have a tendency injurious alike to their character and their prospects. The appointment of an agent for every county and parish will create an immense patronage, and the ex-pense of the numerous officers and their clerks, to be appointed by the President, will be great in the beginning, with a tendency steadily to increase.

The appropriations asked by the Freedmen's Bureau, as now established, for the year 1866, amount to \$11,745,000. It may be safely estimated that the cost to be incurred under the pending bill will require double that amount-more than the entire sum expended in any one year under the administration of the second Adams. If the presence of agents in every parish and county s to be considered as a war measure, opposition, or even resistance, might be pr ed, so that to give effect to their jurisdiction troops would have to be stationed within reach of every one of them, and thus a large standing force be rendered necessary. Large appropriations would, therefore, be required to sustain and enforce military jurisdiction in every county or parish from the Potomac

The condition of our fiscal affairs is en couraging, but in order to sustain the present measure of public confidence it is necessary that we practice, not merely customary economy, but, as far as possible, severe retrench-

In addition to the objections already stated the fifth section of the bill proposes to take away land from its former owners without any legal proceedings being first had, contrato that provision of the Constitution which eclares that no person sha'l "be deprived of life, liberty, or property without due pro-cess of law." It does not appear that a part of the lands to which this section refers may not be owned by minors, or persons of unful to all their obligations as citizens of the United States. If any portion of the land is held by such persons it is not competent for any authority to deprive them of it. If, on the other hand, it is found that the property is liable to confiscation, even then it cannot be appropriated to public purposes until by due process of law it shall have been declared

forfeited to the Government.

There is still further objection to the bill on grounds seriously affecting the class of persons to whom it is designed to bring relief It will tend to keep the mind of the freedman in a state of uncertain expectation and restlessness, while to those among whom he lives it will be a source of constant and vague apprehension.

Undoubtedly the freedman should be protected, but he should be protected by the civil authorities, especially by the exercise of all the constitutional powers of the courts of the United States and of the States. His condition is not so exposed as may at first be imagined. He is in a portion of the country where his labor cannot be spared. Competi-tion for his services from planters, from those who are constructing or repairing railroads, or from capitalists in his own vicinage or from other States, will enable him to command almost his own terms. He also possesses a perfect right to change his place of abode, and if, therefore, he does not find in one community or State a mode of life suited to his desires, or proper remuneration for his labor, he can move to another where that labor is more esteemed and better rewarded.

In truth, however, each State, induced by its own wants and interests, will do what is necessary and proper to retain within its bor-ders all the labor that is needful for the developement of its resources. The laws that regulate supply and demand will maintain their force, and the wages of the laborer will be regulated thereby. There is no danger that the exceedingly great demand for labor

will not operate in favor of the laborer. Neither is sufficient consideration given to the ability of the freedmen to protect and take care of themselves. It is no more than justice to them to believe that, as they have received their freedom with moderation and forbearance, so they will distinguish them-selves by their industry and thrift, and soon show the world that in a condition of freedom they are self-sustaining, capable of selecting their own employment and their own places of abode; of in isting for themselves on a proper remuneration, and of establishing and maintaining their own asylums and schools. It is earnestly hoped that in-stead of wasting away, they will by their own efforts establish for themselves a condition of respectability and prosperity. It is certain that they can attain to that condition only through their own merits and exertions. In this connection the query presents itself, whether the system proposed by the bill will not, when put into complete operation, practically transfer the entire care, support, and control of four millions of emancipated slaves to agents, overseers, or taskmasters, who appointed at Washington, are to be located every county and parish throughout the fugees. Such a system would inevitably tend to a concentration of power in the Executive, which would enable him, if so disposed, to control the action of this numerous class, and use them for the attainment of his own

political ends.
I cannot but add another very grave objection to this bill. The Constitution imperatively declares, in connection with taxaon, that each State small have at least one Representative, and fixes the rule for the number to which, in future times, each State shall be entitled. It also provides that the Senate of the United States SHALL be composed of two Senators from each State, and adds, with peculiar force, "that no State, without its consent, shall be deprived of its equal suffrage in the Senate." The original act was necessarily passed in the absence of the States chiefly to be affected, because their people were then contumaciously engaged in the rebellion. Now the case is changed,

ting the allowance of the constitutional right for representation. At the time, however, of the consideration and the passing of this bill there was no Senator or Representative in Congress from the eleven States which are to be mainly affected by its provisions.

The very fact that reports were and are made against the good disposition of the people of that portion of the country is an additional reason why they need and should have representatives of their own in Congra, to explain their condition, reply to accusations, and assist by their local knowledge in the perfecting of measures immediately affecting themselves. While the liberty of deliberation would then be free, and Congress would have full power to decide according to its judgment, there could be no objection urged that the States most interested had not been permitted to be heard. The principle is firmly in the minds of the American people that there should be no taxation without rep resentation. Great burdens have now to be borne by all the country; and we may best demand that they shall be borne without murmur when they are voted by a majority of the representatives of all the people. would not interfere with the unquestionable right of Congress to judge, each House for itself, " of the elections, returns, and qualifications of its own members." But that au thority cannot be construed as including the right to shut out in time of peace any State from the representation to which it is entitled by the Constitution. At present all the people of eleven States are excluded-those who were most faithful during the war not less than others. The State of Tennessee for instance, whose authorities engaged in rebellion, was restored to all her constitutional relations to the Union by the patriotism and energy of her injured and betrayed people. Before the war was brought to a termination they had placed themselves in relations with the General Government, had established a State government of their own, and as they were not included in the emancipation proclamation, they by their own act had amended their constitution so as to abolish slave-

ry within the limits of their State. I know

o reason why the State of Tennessee, for

example, should not fully enjoy all her con-stitutional relations to the United States. The President of the United States stands owards the country in a somewhat different attitude from that of any member of Congress. Each member of Congress is chosen from a single district or State; the President is chosen by the people of all the States. As eleven States are not at this t no represented in either branch of Congress it would seem to be his duty on all proper occasions to pre-sent their just claims to Congress. There always will be differences of opinion in the community, and individuals may be guilty of transgressions of the law, but these do not constitute valid objections against the right of a State to representation. I would in no-wise interfere with the discretion of Congress with regard to the qualifications of members, but I hold it my duty to reco of Union, the admission of every State to its share in public legislation, when, however insubordinate, insurgent, or rebellious its people may have been, it presents itself not only in an attitude of loyalty and harmony, but in the persons of representatives whose loyalty cannot be questioned under any existing constitutional or legal test. It is plain that an indefinite or permanent exclusion of any part of the country from representation must be attended by a spirit of disquiet and complaint. It is unwise and dangerous to pursue a course of measures which will unite a very large section of the country against another section of the country, however much the latter may preponderate. The course of emigration, the development of industry and business, and natural causes, will raise up at the South men as devoted to the Union as those of any other part of the land. But if they are all excluded from Congress; if in a permanent statute they are declared not to be in full constitutional relations to the country, they may think they have cause to become a unit in feeling and sentiment against the Government. Under the political education of the American people, the idea is inherent and ineracii-cable, that the consent of the majority of the whole people is necessary to secure a willing

acquiescence in legislation. The bill under consideration refers to certain of the States as though they had not "been fully restored in all their constitutional relations to the United States." If they have not, let us at once set together to scenre that desirable end at the earliest possible moment. It is hardly necessary for me to inform Congress that in my own judgment most of these States, so far at least as depends upon their own action, have already been fully restored. and are to be deemed as entitled to enjoy their constitutional rights as members of the Union. Reasoning from the Constitution itself, and from the actual situation of the country. I feel not only entitled, but bound to assume that, with the Federal courts restored, and those of the several States in the full exercise of their functions, the rights and interests of all classes of the people will, with the aid of the military in cases of resistance to the law, be essentially protected against unconstitutional infringement and violation. Should this expectation unhappily fail, which I do not anticipate, then the Executive is already fully armed with the powers conferred by the act of March, 1885, establishing the Freedmen's Bureau, and hereafter, as heretofore, he can employ the land and naval forces of the country to suppress insurrection or to overcome obstructions to the laws.

In accordance with the Constitution, I return the bill to the Senate, in the earnest hope that a measure involving questions and in-terests so important to the country will not become a law, unless upon deliberate consideration by the people it shall receive the sanction of an enlightened public judgment.

ÄNDREW JOHNSON.

WASHINGTON, D. C., February 19, 1866.

-The Louisville Courier of the 10th says "Yesterday afternoon a negro enticed a small girl into the lower cemetery, on Jefferson

street, and outraged her person. The child was found in a dying condition. No arrest has been made." -The Legislature of Mississippi bave lev ied a tax of fifty cents on dogs, excepting one dog for every head of a family.

—The Mississippi Copiahan says: Matt Henry, formerly a member of the twelfth Mississippi regiment, and a young gentleman of whom we had formed a very favorable opinion on the acquaintance we had with him. was killed in an affray at Brookhaven on the

-The Rome (Georgia) Courier says: We regret to learn that the hog cholera is carrying off large numbers of the swine species in our midst.

—In Louisville a few days since, a child died of small-pox while being carried about the streets of the city in its mother's arms.

TRIAL OF MAJOR JOHN H. GEE.

RALEIGH, WEDNESDAY, Feb. 21st, 1866. The Court met at Department Head-Quarters, all the members present, as follows: Colonel W. W. Wheeler, 28th Michigan Infan-

Brevet Lieutenant Colonel John Hamilton, U. Lleutenant Colonel R. K. Miller, 128th Indiana

Infantry. Brevet Major John R. Myrick, U. S. A. Brevet Major P. S. Connor, U. S. A. Captain John Corbin, 128th Indiana Infantry.

Captain Dwight Fraser, 128th Indiana Infantry. Major Francis E. Wolcott, Judge Advocate. Colonels D. P. Holland, of Florida, and Joh Vilder of Massachusetts, were introduced by the Judge Advocate, as counsel for the defence.

The Counsel for the defense stated that the prisoner, not having been put in possession of the charges and specifications against him, in definite form, until yesterday, was not thoroughly prepared with his defense, and therefore asked a reasonable time to send for witnesses and papers, if necessary, after the examination of witnesses for the prosecution should close, which request was accoded to by the Judge Advocate and the Court.

The charges and specifications were then read by the Judge Advocate, as follows: CHARGES AGAINST JOHN H. GEE, LATE

KEEPER OF THE REBEL MILITARY PRI-SON AT SALISBURY, NORTH CAROLINA. CHARGE L. " Violation of the laws and customs of War."

"Violation of the laws and customs of War."

Specification 1st.—"In this, that John H. Gee, while being or claiming to be, a Major in the Rebel military service, and as such being in command and charge of the prison, established and used by the Rebel Government or military authorities, at Salisbury, North Carolina, for the confinement of prisoners of war, taken and held as such from the armles of the United States of America, and being in charge of a large number of such prisoners, to wit: the number of ten thousand or thereabouts, there assembled, and as such commandant fully clothed with authority, and in dety mandant fully clothed with authority, and in duty bound to treat, and care and provide for such pris bound to treat, and care and provide for such prisoners and while the said prisoners at said prison, and in his charge as such commandant, were in a condition of extreme want and suffering, as well as many of them ill and dying, by reason of the utter and continued insufficiency of the rations, clothing, shelter and medical attendance, and of the cold and exposure to which they were constantly subjected, and of the small and marrow limits to which they were constantly subjected, and of the small and marrow limits to which they were confined, did, wilfully and maliciously, and in violation of the laws and usages of civilized warfare, utterly fail and neglect to provide or cause to be provided, or to attempt to have provided, fare, utterly fail and neglect to provide or cause to be provided, or to attempt to have provided, for the said prisoners, confined as aforesaid, and in his charge as such commandant at said prison, proper or sufficient rations, clothing, fact, shelter, water, or hospital attendance; that by reason of such wilful and malicious failure and neglect, the said prisoners were never supplied with food either of a quality or quantity sufficient to preserve health or sustain life, and the food furnished being often of the most disgusting and loathsome description; also, that by reason thereof none of the said prisoners were supplied with sufficient water for culinary purposes, or even for satisfying thirst, or with wood, except in very small and loadequate quantities, and this though an ample amply of water and wood could easily have been obtained, in the immediate neighborbood of said obtained, in the immediate neighborbood of said prison, and readily transported to the same by the prisoners themselves; also, that by reason thereof, no clothing was supplied to the said pris-oners, many of them being left during the sever-ity of winter without clothes, shoes, blankets, or other advants or smithle covering for their nerother adequate or suitable covering for their persons, and even without straw or other suitable thing on which to lie; also, that by reason thereof thing on which to he; also, that by reason thereof the shelter furnished said prisoners, was entirely insufficient to protect them from the inclemency of the weather, a great number of whom there-fore—as well as on account of the insufficiency of clothing and wood as aforesaid—were obliged to burrow in the ground of said prison as the only means of protection; also, that by reason thereof the hospital accommodations and medical atten-dance furnished said prisoners when sick, were so slight and inadequate, that when once sent to the dance furnished said prisoners when sick, were so slight and inadequate, that when once sent to the hospital of said prison, the said sick rarely return-ed alive therefrom, and that by reason further of such wilful and mallelous failure and neglect a very great number of said prisoners, to wit: the number of about twelve hundred per month, died from disease, starvation and exposure. All these and other wrongs to the said prisoners confined

from disease, starvation and exposure. All these and other wrongs to the said prisoners, confined as aforesaid, he, the said Gee then and there did. This at Salisbury, North Carolina, in or about the months of November and December, 1864."

Specification 2d.—In this, that John H. Gee, while being, or claiming to be, a Major in the rebel military service, and as such being in command and charge of the prison established and used by the rebel government or military authorities, at Salisbury, North Carolina, for the continement of prisoners of the war, taken and held as such from the armies of the United States of America, and being in charge of a large number of such prisoners there assembled, to wit: the number of ten thousand or thereabouts, and while the said prisoners at said prison, and in his charge number of ten thousand or thereabouts, and while the said prisoners at said prison, and in his charge as such commandant, were in - condition of extreme want and suffering, as well as many of them ill and dying, on account of the utter and continued insufficiency of the rations, clothing, finelter and medical attendance farnished for them, and the cold and exposure to which they were constantly subjected, did, when sundry citizens of Salisbury, acquainted with the condition of the said paisoners as aforesaid, offered and attempted to relieve said prisoners by administering in some degree to their wants, and by slight acts of kindness and charity, which could in no manner have tended to relax the discipling of said prison—cruelly, and in violation of the law and usages of civilized warfare, prohibit said citizens from so elly, and in violation of the in and the second civilized warfare, probibit said citizens from so relieving the said prisozers; and this although, he, the said G_{S^0} as well as the said rebel government and authorities then, and there, altogethe failed and neglected to properly provide the wants and necessities of said prisoners. This at Salis-bury North Carolina, in or about the months of November and December, 1864.

of November and December, 1808.

CHARGE II.

Murder in violation of the laws of War.

Specification 1st.—In this, that John H. Gee while being, or claiming to be, a Major in the rebel military service, and a such being in command and charge of the prison established and used by the rebel government or military authorities at Sallsbury, North Carolina for the confinement of prisoners of war, taken and held as such from the armies of the United States of America, and being in charge of a large manber of such prisonarmies of the United States of America, and being in charge of a large number of such prisoners, there assembled, to wit: the number of ten thousand or thereabouts, did—upon the occasion of a slight disturbance, engaged in by a very small number of the said prisoners, at said prison, and in which disturbance the prisoners, other than said small number took no part, and which disturbance was caused by sufferings of the said free was responsible, and which disturbance the said free was responsible, and which disof the said prisoners from starvation, for which the said Ger was responsible, and which disturbance the said Gee could have quelled and terminated, by the arrest of the few principally concerned therein, and by the use of moderate force, and the ordinary means of enforcing discipline, which were at his command—wilfully, feloulously, recklessly, and in violation of the laws and usages of civilized warfare, order the entire prison guard to fire upon the mass of prisoners in the enclosure of said prison, indiscriminately. usages of civilized wariare, order the entire prison guard to fire upon the mass of prisoners in the enclosure of said prison, indiscriminately, and did further order two pieces of artillery—one loaded with scrap iron, and one loaded with round shot or shell, and one of said pieces being placed at the time, within about ten yards of the tents of said prisoners—to be fired upon the mass of said prisoners, whereby, and by means of which said firing, and in pursuance of said orders, maliciously and murderously given, as aforesaid, the said guard did then and there fire upon said prisoners, ten of said prisoners of war, in his charge, at such prison, (whose names are unknown,) who were sleeping, or remaining in their tents at the time, were then and there killed, and a large number of others—the number and their names unknown—were wounded, and afterwards died of their wounds. All, or nearly all, who was thus killed, or who died from wounds thus received, being in no wise engaged in said disturbance. This at Satisbury, North-Carolina, on or about the 25th day of November, 1864.

1864. Specification 2d—"In this, that the said John H. Gee, while being or elucing to be a Major in the rebel military service, and as such being in command and charge of the prison established and used by the rebel government or military author.

ities, at Salisbury, North Carolina, for the confinement of prisoner? of war, taken and held as such from the armies of the United States of America, and beling in charge of a large number of such prisoners there assembled, feloniously, wilfully and of his malice alorethought, did, needlessly, and without cause, order the guard at said prison, to fire upon said prisoners, therein confined, and in pursuance of said order, maliciously and murderously given, as aforesaid, one of the said guard, whose name is unknown, did, with a musket loaded with gunpowder and bullet, then and there thre upon the said prisoners, inflicting upon Lieutenant John Davis, 155th New York Infantry, one of the said prisoners confined in the said prison, a mortal wound, with the musket aforesaid, of which he, the said Lieutenant Davis, died. This at Salisbury, North Carolina, on or about the 16th day of October, 1864."

Specification 3d.—In this, that the said John H. Gee, while beling, or claiming to be, a Major in the rebel military service, and as such being in command and charge of the prison established and used by the rebel government or military anthorities, at Salisbury, North Carolina, for the confinement of prisoners of war, taken and held as such from the armies of the United Stales of America, and being in charge of a large number of such prisoners there assembled, feloniously, willfully, and of his malice aforethought, did, needlessly, and without cause, order the guard at said prison, to fire upon asid prisoners, therein confined, and in pursuance of said order, maliciously and murderously given as aforesaid, one of the said guard, whose name is unknown, did, with a musket loaded with gunpowder and bullet, then and there, fire upon the said prisoners, inflicting upon one of the said prisoners whose name is unknown, a mortal wound, with the musket aforesaid, of which he, the said prisoners, inflicting upon one of the prison, established and used by the rebel government or military anthorities at Salisbury, North Carolina, on willfully, and of his malice allorethought, did, needlessly, and without cause, order the guard of anid prison, to fire upon said prisoners, therein confined, and in pursuance of said order, maliciously and murderously given as aforesaid, one of the said guard, whose name is unknown, did, with a mustice loaded with gunpowder and bullet, then and there fire upon the said prisoners, hefficing upon one of the said prisoners, whose name is unknown, a mortal wound, with the musket aforesaid, of which he, the said prisoner, died. This at Salisbury, North Carolina, on or about the 30th day of November, 1804.

Specification 5th—In this, that the said John H. Gee, while being, or claiming, to be, a Major in the rebel military service, and as such being in command and charge of the prison established and used by the rebel government or military authorities, at Salisbury, North Carolina, for the confinement of prisoners of war taken and held as such from the armics of the United States of America, and being in charge of a large number of

such from the armies of the United States of America, and being in charge of a large number of such prisoners there assembled, feloniously, wilfally, and of his malice aforethought, did, needlessly, and without cause, order the guard, at said prison, to fire upon said prisoners, therein confined, and in pursuance of said order, maliciously and murderously given, as aforesaid, one of the said guard, whose name is unknown, did, with a musket loaded with gunpowder and bullet, then and there fire upon the said prisoners, inflicting upon one of the said prisoners, whose name is unknown, a mortal wound with the musket aforesaid, of which he, the said prisoner, died. This at Salisbury, North Carolina, on or about the 1st day of December, 1864.

Specification 6th.—In this, that the said John H.

ification 6th .- In this, that the said John H. Gee, while being or claiming to be a major in the rebel military service, and as such being in com-

Specification 6th.—In this, that the said John H. Gee, while being or claiming to be a major in the rebel military service, and as such being in command and charge of the prison established and used by the rebel government or military authorities, at Salisbury, North Carolina, for the confinement of prisoners of war taken and held as such from the armies of the United States of America, and being in charge of a large number of such prisoners there assembled, felonously, wilfully, and of his malice aforethought, did, needlessly, and without cause, order the guard at said prison, to fire upon said prisoners, therein confined, and in pursuance of said order, maliciously, and murderonsly given, as aforesaid, one of the said guard, whose name is unknown, did, with a musket loaded with gunpowder and bullet, then and there fire upon the said prisoners, inflicting upon Moses Smith, a colored soldier, one of the said prisoners, confined in the said prison, a mortal wound with the musket aforesaid, of which he, the said Moses Smith, died. This at Salisbury, North Carolina, on or about the 16th day of December, 1884.

Specification 7th. In this, that the said John H. Gee, while being or claiming to be, a unajor in the rebel military service, and as such, being in command and charge of the prison established and used by the rebel government or military authorities, at Salisbury, North Carolina, for the confinement of prisoners of war, taken and held as such from the armies of the United States of America, and being in charge of a large number of such prisoners there assembled, feloniously, wilfully, and of his malice aforethought, did, needlessly, and without cause, order the guard at said prison to fire upon the said prisoners, therein confined, and in pursuance of a large number of such prisoners there assembled, feloniously, wilfully, and of his malice aforethought, did, needlessly, and without cause, order the guard at said prison to fire upon the said prisoners, inflicting upon Frank Grabam, an enlisted man of company

The prisoner, by his counsel, offered a plea in bar of the charges and specifications, which was read before the Court. The main points of the plea are, that by the terms of capitulation agreed to between Generals Sherman and Johnston, and by the terms of parole granted under those terms to officers and soldiers surrendered under General Johnston, the United States, by its accredited agent, agreed and pledged its faith, that these officers and soldiers shall not be molested so long as they comply with the terms of the parole. We will endeavor to give the plen in full, to-morrow, together with the answer thereto by the Judge Advocate, which will be delivered to-day.

THURSDAY, Fibruary 224, 1866. The Court met at the District Head-Quarters; all the members present. The Judge Advocate proceeded to read his answer to the plea in bur, offered by the defense, on yesterday. Toe plea and answer areas follows:

PLEA IN BAR OF TRIAL OFFERED BY THE DEFENSE. In bar of his trial by the said commission, the

THE DEFENSE.

In bar of his trial by the said commission, the said John H. Gee, respectfully represents that at the time of the surrender of the armies of the so-called Confederate States, he held the commission of a Major: that after said surrender, that on or about the — day of May, 1865, he was regularly and duly paroked by the military authorities of the United States, and relying upon said paroke, and in pursuance of the express terms thereof, he returned to his home in Quincy, in the State of Florida, where he had resided previous to Jacuary, 1864, and there remained a peaceable and obedient citizen, strictly observing all the laws in force in the place of his residence previous to Jacuary, 1861, as required in said paroke, and rigidly complying to all the conditions thereof.

That he is still a paroked prisoner of war of the United States, and has never been exchanged, and that in consequence of his paroke aforesaid, and of the express terms of the surrender and of his conduct under said paroke, he was and is rightfully protected from arrest, disturbance or trial, by the United States being pledged thereto.

And the said paroke being now in force, the said Gee respectfully denies the right of the military authorities of the United States, in the face of the express terms thereof, to imprison and try him for allodged crimes and misdemeanors committed anterior to his surrender and paroke aforesaid. And the said gee respectfully calls the attention of the Court to the opinion of the Attorney General of the United States (which is herewith appended) being the legal adviser of the President of the United States under of the President of the United States in the face of the government, in giving his opinion against the trial of Jefferson Devis and others by military court on the charge of high treason, e.e., also uses the language which in its terms is precisely appliqued to the present case, though high treason is

NO. 9.

not one of the charges here. He says "some of the prominent rebels were personally present at the prominent rebels were personally present at the property all of them received military parolar upon the surrender of the rebel srimes. Whilst I think that these paroles are not sithnate protection from proceedings for high treason, I have thought that it would be a violation of the parolas to prosecute those persons for crimes before the political power of the government has proclaimed that the rebellion has been suppressed," which proclamation the said Gee need not inform the Court has never been issued.

The fact of a state of war existing over the territory in rebellion being expressly stated in the same opinion, these paroles cannot be revoked, if at all, before such proclamation of peace has been issued, or martial law discontinued, and the said Gee further says that by the customs of war a parole is held sacred by all civilized nations.—That in the hands of this Court reats the sacred honor of the United States, which this Court is bound to and will respect, deciding in the words of their onth, "according to their consciences, the best of their understanding, and the custom of war in like cases." And of this custom of war this Court, composed of military men, is bound to judge.

And the said Gee begs to call the attention of the Court that one Wirtz, recently tried by a Military Commission at Washington, was not thus a paroled prisoner of war, and that the obstacle which exists to this trial did not exist in his case; and further that Jefferson Davis and others, members of the rebel Cabinet, and civil officers of the rebel government, are not thus paroled, nor under such protection, they not being included in the terms of the surrender of the insurgent atmies.

Wherefore, the said John H. Gee respectfully measers the this Court and

de such protection, they not being included in the terms of the surrender of the insurgent armies.

Wherefore, the said John H. Gee respectfully requests that this Comt will decline to exercise jurisdiction in his case; and will regard his statement aforesaid, and his parole annexed, as a bar to his trial. Or that, if any doubts exist, whether said parole is a full protection, that the matter be referred to the proper authorities at Washington, as he is informed and believes that the Lieutenant General Commanding the armies of the United States and other of the high officers thereof, regard paroled prisoners of war as protected by these paroles from trial and molestation.

And for further reasons, he says, that by the laws of nations, it is held as a part of the fundamental law of nations and of war, "that as every commander necessarily has a power of agreeing to the conditions on which the enemy admits his surrender, the engagements entered into by him for saving his life or liberty, with that of his men, are valid, as made within the limits of his powers, and his sovereign cannot annul them," (see Vattel's Law of Nations, book 3d, chapter 8, section 151.)

The laws of nations are a part of the

tel's Law of Nations, book 3d, chapter 8, section 151.)

The laws of nations are a part of the Constitution of the United States, (1st Kent's Commenteries, pp 1, and 2, &c.—Opinion of Attorney General of the United States, on the trial of the assassins of President Lincoln,) and the power to parole captured prisoners of war has been exercised by the General commanding the armies of the United States, and recognized by the government without question during the rebellion.

And the said John H. Gee further says, that, on the 26th day of April, 1805, a military convention was entered into, at Bennett's house, near Durham's Station, N. C., between Gen. J. E. Johnston, commanding the so-called Confederate army, and Maj. Gen. W. T. Sherman, commanding United States army in North Carolina, which Convention resulted in terms of capitulation and surrender, on the part of all the troops under Gen. Johnston's command: the terms of which are in the words and figures following:

Terms of a Military Convention, entered into, this 20th day of April, 1805, at Bennett's House, near Durham's Station, N. C., between General army, and Major General W. T. Sherman, commanding the United States army, in No

L All acts of war on the part of the troops under Gen. Johnston's command, to cease from this date.

II. All arms and prolic property to be deposited at Greensboro' and delivered to an ordnance officer of the United States army.

HI. Rolls of the officers and men to be made in duplicate; one copy to be retained by the commander of the troops, and the other to be given to an officer, to be designated by General Sherman. Each officer and man to give his ladividual obligation in writing not to take up arms against the government of the United States, until properly released from this obligation.

IV. The side arms of officers and their private horses and baggage to be retained by them.

V. This being done, all the officers and men will be permitted to return to their homes, not to be distured by the United States anthorities, so long as they observe their obligations and the laws in force where they reside.

(Signed)

J. E. JOHNSTON, Gen.

Commanding U. S. forces in N. C.,

W. T. SHERMAN, Maj. Gen.

Commanding U. S. forces in N. C.,

W. T. SHERMAN, Maj. Gen.

Commanding U. S. forces in N. C.,

W. T. SHERMAN, Maj. Gen.

Commanding U. S. forces in N. C.,

On the said Confederate States army, and in that portion of it known as the 11th regiment of Infantry, and was under the command, on the 1st day of May, 1855, of Brig. Gen. B. D. Fry, and that he, the said Brig. Gen. Fry, and he, the said John H. Gee, did form a part of the troops under Gen. Johnston's command: and that he was included in the surrender of the said Gen. Johnston, to Gen. Sherman, and that, in accordance with the stipulation of the said terms of surrender, st. Augusta, Ga., on the 1st day of May, 1865, pareled. And, in accordance with the terms of said surrender, and especially of the 5th section thereof, he was permitted to return to his home, which was at the town of Quiney, in the State of Florida, of which place he had been a continous citizen and resident, and where his home was for more than twelve years, preceding the date of said surrender. A which was at the town of Quiney, in the State of Florida, of which place he had been a continous citizen and resident, and where his home was for more than twelve years, preceding the date of said surrender. And that on the 18th day of May, 1805, in accordance with the General Ordors, from headquarters of the United States forces, Tallahasse, Florida, he was again paroled by the officers of the United States, and that he did, and has faithfully observed his said paroles, and never violated the same, and has obeyed the laws of the United States, both civil and military, which he was bound to do. And he shows here to the Court, the original paroles and a copy of the terms of said surrender.

And he further says, that by the laws of nations, which are a part of the Constitution of the United States, and by the honor and faith of the General Commanding the armies of the United States, and by the honor and faith of the General Commanding the armies of the United States, and more especially by the 5th section of the terms of said surrender, he is shielded and protected from any trial, such as is here attempted, and is not to be distured by the United States authorities, so long as he observes the obligations in his parole aforesaid, and the laws in force where he resides.

And he further says, that he has no doubt that if the military anthorities of the United States had been acquainted with the fact of his being paroled as aforesaid, that no such tria is that here attempted would have been ordered. And that no officer has authority to violate the faith of the United States.

And the said John H. Gee regards it as too clear for argument that the said General J. E-Johnston would not have surrendered the troops under his commands of which he, the said John H. Gee, was a part, if it had been stated or understood that after the surrender, and of his being paroled, and subsequent obedience of the United States for acts committed by them pilor to said surrender, he asks that he may be permitted to introduce witnesses to pr

[COPY.]

HEADQUARTURE, Augusta, Ga.,
May let. 1886.

The bearer, J. H. Gee, a Major in Compa

—, 11th Regiment, Florida Volunteers, a p
roled prisoner of the army commanded by Go
J. E. Johnston, has permission to go to his hom
and there remain undisturbed qu condition of p